



1-1-2001

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Recommended Citation

Sarah J. Farhat, *Environmental Protection / Environmental Racism: The PIBBY Principle*, 33 MCGEORGE L. REV. 295 (2002).

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Environmental Racism: The PIBBY Principle

Sarah J. Farhat

Code Sections Affected

Government Code §§ 65040.2, 65040.12 (amended).
AB 1553 (Keeley); 2001 STAT. Ch. 762.

“The white middle-class environmental movement of the 1960s and 1970s built an impressive political base for reform to combat the damage by our chemically-centered industrial society[.]” However, it gave little attention to the implications of the NIMBY (not in my backyard) phenomenon. In many cases the NIMBY cry has often resulted in what Bullard terms the PIBBY principle: Place in blacks’ backyards. The effect is a society divided, literally and psychologically, by freeways, landfills, and hazardous-waste dumps.¹

I. INTRODUCTION

When one thinks of the problem of landfills and waste removal sites in minority areas, it is easy to assume that those residential communities sprung up amidst the environmental hazards. But oftentimes, such environmental hazards are placed in minority residential areas where either the landscape is conducive to the particular facility or where opposition by residents may be minimal.² In regards to the presumed lack of residential opposition some studies have shown that opposition does exist.³ For example, studies have shown that black residents possess a concern for their environment equal to or greater than that of white residents.⁴ When minority citizens and neighborhoods mobilize against situations where they perceive their environment to be endangered, they take legal action

1. Peter Callahan, *Environmental Racism: When Civil Rights are Used to Protect More Than Individual Liberty*, OMNI, July 1994, at 8 (quoting Robert Bullard, University of California sociologist and prominent environmental justice advocate).

2. William Arp III & James Llorens, *Environmental Justice for Black Americans: A Question of Fairness*, W. J. OF BLACK STUD., June 22, 1999, at 125 (discussing the inequities between black and white neighborhoods in terms of the placement of polluting industries).

3. *Id.*

4. *Id.*

against the industrial corporations building environmentally hazardous facilities.⁵ This phenomenon of environmentally hazardous facilities being predominately constructed in minority neighborhoods has come to be known as environmental racism or environmental justice.⁶

This article will: (1) define "environmental justice" and review the background of the movement,⁷ (2) examine the existing law at the federal and state levels of government and observe that there is no such existing law at the local level,⁸ (3) discuss Chapter 762 and explain its provisions,⁹ (4) trace the chronology of Chapter 762 through several amendments in Assembly and Senate committees and examine the impact of such changes on the objective of the bill,¹⁰ and (5) analyze the implications that Chapter 762 will likely have on existing law and the arguments in support and opposition of this new law.¹¹

II. THE BACKGROUND OF "ENVIRONMENTAL JUSTICE"

"Environmental justice" is defined in the California Government Code to mean "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."¹² Environmental justice issues often arise when environmentally-regulated facilities, such as landfills, are sited or proposed to be sited near low-income or minority communities.¹³ The environmental justice movement can be traced back to 1982, when a citizen's group in Warren County, North Carolina, staged a large demonstration to oppose the construction of a polychlorinated biphenyl (PCB)¹⁴ landfill that was to be

5. See Keith Schneider, *Minorities Join to Fight Polluting Neighborhoods*, N.Y. TIMES, Oct. 25, 1991, at A20 (describing the opening of a national conference to address the issue of toxic contamination in minority neighborhoods).

6. Julie A. Roque, *Environmental Equity: Reducing Risk for All Communities; Report by Environmental Protection Agency*, ENV'T, June 1993, at 25 (crediting Benjamin F. Chavis, Jr., executive director of the Commission on Racial Justice, for coining the term "environmental racism," which is defined as "the charge that activists level against government and corporate officials whose economic and regulatory decisions yield increasingly inequitable results.").

7. *Infra* Part II.

8. *Infra* Part III.

9. *Infra* Part IV.

10. *Infra* Part V.

11. *Id.*

12. CAL. GOV'T CODE § 65040.12(e) (West 1999).

13. ASSEMBLY COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF AB 1553, at 1-2 (May 23, 2001).

14. See *Alabama Dump Promoted for Carolina PCB's*, N.Y. TIMES, Sept. 25, 1982, at 17 [hereinafter *Alabama Dump*] (describing polychlorinated biphenyls (PCBs) as being widely used as a coolant in electrical capacitors and transformers). PCBs are known to cause birth defects, liver and skin disorders, and are suspected of causing cancer. *Id.*; *Carolínians See Governor in PCB Landfill Dispute*, N.Y. TIMES, Oct. 10, 1982, at 31 [hereinafter *Landfill Dispute*] (noting that the demonstrations lasted approximately three weeks; more than five hundred people, including ninety-four juveniles, were arrested).

built in a predominately black community.¹⁵ Some say it was the largest civil rights demonstration since the 1960s.¹⁶ After more than five hundred people were arrested,¹⁷ various studies¹⁸ took place and concerns were raised as to the current environmental laws and their impact on minority citizens' civil rights.¹⁹

Current California law focuses on environmental justice issues at the state level.²⁰ No state policy or guidelines exist to address environmental justice issues at the local level, where such issues often surface.²¹ Local governments must adopt a general plan for land use throughout their respective communities.²² The general plan designates what types of uses and what densities will be allowed in certain areas of the city or county.²³ Implementation of environmental justice guidelines at the local level of planning will address the environmental justice issue earlier in the planning process and will allow the local government to address environmental justice concerns more broadly, rather than on a project-by-project basis, as is currently done through the California Environmental Quality Act (CEQA).²⁴ Furthermore, addressing environmental justice concerns at the local level is important because most citizen environmental justice advocates do not possess the political clout or funds to procure a lobbyist's services to raise their issues to state agencies.²⁵

15. *Alabama Dump*, *supra* note 14, at 17; *Landfill Dispute*, *supra* note 14, at 31; *Carolínians Angry over PCB Landfill*, N.Y. TIMES, Aug. 11, 1982, at D17 [hereinafter *Carolínians Angry*] (detailing that the site was to hold fifty thousand tons of soil contaminated with PCBs taken from roadsides along more than two hundred miles of North Carolina roads). The chemical was dumped there by people seeking to avoid the cost of proper disposal. *Id.*

16. Callahan, *supra* note 1, at 8.

17. *Landfill Dispute*, *supra* note 14, at 31.

18. See U.S. GENERAL ACCOUNTING OFFICE, ACCESSION # 121648, SITING OF HAZARDOUS WASTE LANDFILLS AND THEIR CORRELATION WITH RACIAL AND ECONOMIC STATUS OF SURROUNDING COMMUNITIES, Vol. 8, No. 7 at 143 (July 1983) (finding that "blacks make up the majority of the population in three of the four communities where the region's four offsite hazardous waste landfills are located. Federal legislation requires public participation in the hazardous waste landfill permit process, except for the approval of the disposal of [PCBs].").

19. ASSEMBLY COMMITTEE ON NATURAL RESOURCES, COMMITTEE ANALYSIS OF AB 1553, at 3 (Apr. 16, 2001).

20. *Id.* at 5; Telephone Interview with Rick Best, Legislative Assistant, Office of Assembly Speaker Pro Tem Fred Keeley (July 6, 2001) [hereinafter *Best Interview*] (notes on file with the *McGeorge Law Review*).

21. ASSEMBLY COMMITTEE ON NATURAL RESOURCES, COMMITTEE ANALYSIS OF AB 1553, at 5 (Apr. 16, 2001).

22. Telephone Interview with Bryan Graddich, Associate Planner, Governor's Office of Planning and Research—State Clearinghouse (July 6, 2001) [hereinafter *Graddich Interview*] (notes on file with the *McGeorge Law Review*).

23. *Id.*

24. *Id.*; *Best Interview*, *supra* note 20; CAL. PUB. RES. CODE §§ 21000-21178 (West 1996).

25. ASSEMBLY COMMITTEE ON NATURAL RESOURCES, COMMITTEE ANALYSIS OF AB 1553, at 5 (Apr. 16, 2001); Telephone Interview with Aristotle Evia, Senior Legislative Analyst, Assembly Committee on Natural Resources (July 10, 2001) [hereinafter *Evia Interview*] (notes on file with the *McGeorge Law Review*).

III. EXISTING LAW

A. Federal Law

The 1982 protest in Warren County²⁶ was the seminal event that brought the environmental justice issue to the attention of the United States General Accounting Office (GAO).²⁷ The GAO was asked to investigate siting issues raised by the protest with respect to race and income.²⁸ In 1990, the United States Environmental Protection Agency (EPA), under the administration of William K. Reilly, formed the Environmental Equity Workgroup (Workgroup).²⁹ The objective of the Workgroup was to study the evidence demonstrating that minority and low-income communities encounter greater environmental risks than the general population and determine what the EPA could do about any inequities they discover.³⁰ The Workgroup found that overall there was a lack of data on environmental health effects broken down by race and income.³¹ But, in view of the information that did exist, the Workgroup found that minority populations are more frequently exposed to selected air pollutants, hazardous waste facilities, and contaminated fish and agricultural products.³² Furthermore, black children tend to have higher levels of lead in their blood than white children.³³ In 1992, the EPA created the Office of Environmental Justice to assess the distribution of environmental risks across the general population and across certain groups.³⁴

On February 11, 1994, President Clinton signed Executive Order 12,898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."³⁵ Its goal was to encourage non-discrimination in federal agencies and programs that could substantially impact

26. *Supra* notes 14-19 and accompanying text.

27. U.S. GENERAL ACCOUNTING OFFICE, *supra* note 18, at 143.

28. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, BACKGROUND AND CONTENT, *available at* www.epa.gov/comp_risk/history7/equity/chapt2.html (last updated Jan. 29, 1998) (copy on file with the *McGeorge Law Review*).

29. *See* UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, INTRODUCTION AND EXECUTIVE SUMMARY, *available at* www.epa.gov/comp_risk/history7/equity/chapt1.html (last updated Jan. 29, 1998) [hereinafter EPA EXECUTIVE SUMMARY] (copy on file with the *McGeorge Law Review*) (explaining that the Workgroup consists of EPA staff from several offices and regions across the Agency). Its task is to "assess the evidence that racial minority and low-income communities bear a higher environmental risk burden than the general population and consider what EPA might do about any identified disparities." *Id.*

30. *Id.*; *see also* Hillary Gross, Hannah Shafsky & Kara Brown, *Environmental Justice: A Review of State Responses*, HASTINGS PUB. L. RES. INST. 2-4 (Dec. 2000) (summarizing federal law relating to environmental justice and analyzing the states' approaches to the issue).

31. EPA EXECUTIVE SUMMARY, *supra* note 29, at 2.

32. *Id.*

33. *Id.*

34. ASSEMBLY COMMITTEE ON NATURAL RESOURCES, COMMITTEE ANALYSIS OF AB 1553, at 3 (Apr. 16, 2001).

35. Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 11, 1994).

human health and the environment by asking agencies to make environmental justice part of their missions by “identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of [their] programs, policies, and activities on minority populations and low-income populations in the United States.”³⁶ This order directed federal agencies to use Title VI of the Civil Rights Act of 1964³⁷ or the National Environmental Policy Act of 1969 (NEPA)³⁸ as guidelines when incorporating environmental justice into their programs and policies.³⁹

Title VI of the Civil Rights Act of 1964⁴⁰ directs that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”⁴¹ Under Title VI, the EPA is responsible for assuring compliance with environmental justice guidelines for agencies to which it provides federal funding.⁴² NEPA requires federal agencies to “take into account the environmental impacts of federal decisions which could significantly affect the environment.”⁴³ Under NEPA, federal agencies are required to inform the public of any environmental impacts their decisions may produce.⁴⁴

In 1998, the EPA circulated the Interim Guidance for Investigating Title VI Administrative Complaints (IG)⁴⁵ to process complaints by citizens or citizens’ groups that state or local permits violated Title VI by causing disproportionate negative effects on minority communities.⁴⁶ State agencies, environmental justice advocates, and community representatives condemn IG for being unclear and unhelpful as guidelines.⁴⁷ Critics believe that IG implies that permits may be suspended if a civil rights complaint were filed, thus slowing implementation of permits.⁴⁸

36. *Id.*

37. Title VI of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000d (West 1994).

38. National Environmental Policy Act of 1969, 42 U.S.C.A. §§ 4321-4370f (West 1970).

39. See ASSEMBLY COMMITTEE ON NATURAL RESOURCES, COMMITTEE ANALYSIS OF AB 1553, at 3 (Apr. 16, 2001) (referring to the presidential memorandum accompanying Executive Order No. 12,898).

40. 42 U.S.C.A. § 2000d.

41. *Id.*

42. Gross, Shafsky & Brown, *supra* note 30, at 7.

43. See Environmental Protection Agency, *EPA Region 8 NEPA and EIS Review*, at 1 available at: http://www.epa.gov/region08/laws_enforcement/nepa/nepa.html (last modified May 7, 2001) (copy on file with the *McGeorge Law Review*).

44. *Id.*

45. Gross, Shafsky & Brown, *supra* note 30, at 8.

46. ASSEMBLY COMMITTEE ON NATURAL RESOURCES, COMMITTEE ANALYSIS OF AB 1553, at 4 (Apr. 16, 2001).

47. Gross, Shafsky & Brown, *supra* note 30, at 8.

48. ENVIRONMENTAL PROTECTION AGENCY, REPORT OF THE TITLE VI IMPLEMENTATION ADVISORY COMMITTEE: NEXT STEPS FOR EPA, STATE, AND LOCAL ENVIRONMENTAL JUSTICE PROGRAMS at 4 (Mar. 1999).

B. State Law

In 1999, the California Legislature, for the first time, adopted the use of environmental justice guidelines and applied them to state agencies.⁴⁹ Under existing law, the Governor's Office of Planning and Research (OPR) is the coordinating agency for environmental justice programs, and the Director of OPR is required to consult with other state agencies and share information with federal agencies with regard to existing and prospective environmental justice programs.⁵⁰ The California Environmental Protection Agency (Cal-EPA) is required to integrate environmental justice policies into its mission policies and program standards and develop a model environmental justice mission statement for use within the agency.⁵¹

The Secretary for Environmental Protection must convene a Working Group on Environmental Justice (Working Group) to examine existing data on environmental justice and recommend guidelines for identifying and addressing any gaps in existing programs that may impede the achievement of environmental justice.⁵² The Secretary must also convene an advisory committee to assist the Working Group.⁵³ The Secretary is required to report to the Governor and Legislature regarding the implementation of this law.⁵⁴

IV. CHAPTER 762

Chapter 762 calls for the creation and adoption of environmental justice guidelines for local governments.⁵⁵ OPR is responsible for drafting the guidelines,⁵⁶ which are intended to be incorporated into cities' and counties' general plans.⁵⁷ OPR is required to hold meetings, at least one prior to the

49. CAL. GOV'T CODE § 65040.12 (West 1997).

50. *See id.* (listing the various state agencies the Director is required to consult with, including the California Environmental Protection Agency, the Resources Agency, the Trade and Commerce Agency, the Business, Transportation and Housing Agency, the Working Group on Environmental Justice, and any other interested state agencies or members of the public and private sectors). The Director is required to share information with the Council on Environmental Quality, the U.S. Environmental Protection Agency, the General Accounting Office and the Office of Management and Budget, as well as other federal agencies. *Id.*

51. *See* CAL. PUB. RES. CODE § 72001 (West 1999) (requiring the model mission statement to be created and implemented by January 1, 2001).

52. *See id.* § 72002(a) (West 2000) (mandating the Cal-EPA to convene the Working Group on or before January 15, 2002).

53. *See id.* § 72003 (West 2000) (requiring the Cal-EPA to convene the Advisory Group on or before January 15, 2002).

54. *See id.* § 72004 (West 2000) (commanding the Cal-EPA Secretary to prepare and submit a report on the implementation of the Working Group and Advisory Group by January 1, 2006 and every three years thereafter).

55. *See* CAL. GOV'T CODE § 65040.12(e) (amended by Chapter 762) (requiring completion of the creation of environmental justice guidelines for local governments by July 1, 2003).

56. *Id.*

57. *Id.*

adoption of the guidelines and at least one after, to receive public comments and criticism.⁵⁸ Such hearings may be held at the regular meetings of the Planning Advisory and Assistance Council.⁵⁹ Chapter 762 requires that the OPR-drafted guidelines recommend certain provisions proposing methods for providing for the equitable distribution of new public facilities and services throughout the community.⁶⁰ Chapter 762 also mandates that the guidelines propose methods for providing for the location of certain industrial facilities so as to avoid over-concentrating them near schools or residential properties and provides that developers should seek to locate new schools and residential homes in such a manner so that they are not too close to certain industrial facilities.⁶¹ Finally, Chapter 762 requires that the guidelines propose methods for minimizing traffic and pollution by expanding opportunities for "transit-oriented developments."⁶²

V. ANALYSIS OF CHAPTER 762

The final version of Chapter 762 differs substantively than when it was first introduced.⁶³ It has undergone numerous amendments, both in Assembly and Senate committees.⁶⁴ Originally, Chapter 762 required local agencies to follow the guidelines created by OPR.⁶⁵ The Assembly Committee on Local Government removed this requirement by amendment after the League of California Cities voiced its opposition to it.⁶⁶ The League's concerns were threefold.⁶⁷ First, the League was "concerned about the [S]tate developing guidelines with limited

58. *Id.*

59. *Id.*

60. *Id.* § 65040.12(D)(1)-(4).

61. CAL. GOV'T CODE § 65040.12(d)(3) (amended by Chapter 762).

62. *Id.* "The guidelines . . . shall . . . propose methods for promoting more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, schools, and recreation." *Id.*

63. Compare AB 1553 (2001) (as introduced on Feb. 23, 2001, but not enacted) (recommending that by January 1, 2003, the Governor's Office of Planning and Research adopt mandatory guidelines for addressing environmental justice issues in city and county general plans as a state-mandated local program), with 2001 Cal. Stat. ch. 762, sec. 2, at 92 (proposing that the adopt suggestive guidelines for cities and counties to address environmental justice issues in city and county general plans pertaining to methods for equitable distribution of new facilities, not placing environmental hazards too close to schools and residences, placing schools and residences far from environmental hazards, and for promoting more livable communities).

64. ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT, COMMITTEE ANALYSIS OF AB 1553, at 1 (Apr. 25, 2001); SENATE COMMITTEE ON ENVIRONMENTAL QUALITY, COMMITTEE ANALYSIS OF AB 1553, at 1 (July 2, 2001); SENATE COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF AB 1553, at 1 (Aug. 28, 2001).

65. AB 1553 (2001) (as introduced on Feb. 23, 2001, but not enacted); Office of Assembly Speaker Pro Tem Fred Keeley, AB 1553 (*Keeley*) *Environmental Justice Fact Sheet* (on file with the *McGeorge Law Review*).

66. AB 1553 (2001) (as amended on May 1, 2001, but not enacted).

67. See Letter from Daniel Carrigg, Legislative Representative, League of California Cities, to Fred Keeley, Assembly Speaker Pro Tem 1-2 (Apr. 16, 2001) (on file with the *McGeorge Law Review*) (listing three reasons why the League of California Cities opposes AB 1553).

public input.”⁶⁸ The League was also concerned that the language of Chapter 762 allowed for mandates to be created and imposed on local governments, rather than mere guidelines.⁶⁹ Finally, the League was concerned with the novelty of environmental justice laws; the federal and state guidelines that exist in this area of law are still in the process of being adopted, refined, and implemented.⁷⁰ Therefore, the Legislature removed the requirement that all cities and counties implement the OPR-created guidelines into their general plans from the language of Chapter 762.⁷¹

The Senate Committee on Environmental Quality made the second and third amendments to Chapter 762.⁷² In an effort to compensate for the prior amendment and to give more specific direction within the bill to OPR, section (d) and its four sub-parts⁷³ were added to Chapter 762.⁷⁴ This language afforded more clarity and narrowed the scope of Chapter 762 to address primarily environmental justice concerns relative to schools and residential dwellings.⁷⁵ It also introduced an environmental justice concept not present in the original language.⁷⁶ Not only does the amended language provide that hazardous industrial facilities and uses should be located in a manner that avoids over-concentration of these facilities in close proximity to schools and residential dwellings, but it also seeks to provide for the equitable distribution of new public facilities and services in a manner that will enhance the quality of life throughout the community.⁷⁷

These amendments have had a substantial impact on the objective of Chapter 762. Chapter 762 no longer requires local cities and counties to integrate the OPR-created environmental justice guidelines into their general plans, thus depriving Chapter 762 of its “bite.”⁷⁸ Some believe that because environmental justice is an emerging area of law in California, legislators, corporate

68. *Id.*

69. *Id.*

70. *Id.*

71. AB 1553 (2001) (as amended on May 1, 2001, but not enacted); Best Interview, *supra* note 20.

72. AB 1553 (2001) (as amended on July 5, 2001, but not enacted); SENATE COMMITTEE ON ENVIRONMENTAL QUALITY, COMMITTEE ANALYSIS OF AB 1553, at 2 (July 2, 2001).

73. See SENATE COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF AB 1553, at 1 (Aug. 27, 2001) (explaining that a fourth sub-part was added “to promote more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, school, and recreation.”).

74. AB 1553 (2001) (as amended on June 27, 2001, but not enacted); see Best Interview, *supra* note 20 (outlining specific objectives to address when drafting provisions for the general plans).

75. CAL. GOV’T CODE § 65040.12 (amended by Chapter 762).

76. Compare AB 1553 (2001) (as introduced on Feb. 23, 2001, but not enacted), with 2001 Cal. Stat. ch. 762, sec. 2, at 92 (distinguishing the amended text by stating that the guidelines shall recommend provisions to propose methods for planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community).

77. CAL. GOV’T CODE § 65040.12(d)(1)(3) (amended by Chapter 762).

78. See *id.* (indicating that an amendment made in the Assembly Committee on Local Government removed language requiring each city or county to ensure that their general plans comply with the guidelines).

constituents, and local governments are hesitant to require anything in the way of environmental justice guidelines to be implemented at the local level.⁷⁹ However, chances are that at some time in the future, when environmental justice is better defined and understood, stricter requirements, such as those proposed in the original language of Chapter 762, will be created and implemented.⁸⁰

Currently, Chapter 762 extends the use of environmental justice guidelines, already in use at the federal and state levels of government, to local governments.⁸¹ Environmental justice guidelines would enable planners to recognize that certain land uses in select parts of the region would be considered discriminatory and also afford citizens the opportunity to participate in the general planning process.⁸² The guidelines would also address the cumulative impact of permitting environmental hazards; a matter which the existing CEQA⁸³ guidelines do not discuss.⁸⁴ The CEQA⁸⁵ guidelines address each plan, project-by-project, at the permitting stage of the planning process.⁸⁶ The effect is that each individual project may be found to be environmentally safe, but several projects located within close proximity of each other may cumulatively be environmentally hazardous.⁸⁷ The guidelines called for by Chapter 762 would not only account for this cumulative effect, but by addressing the issue of environmental justice at an earlier stage of the planning process, the objective of promoting the fair distribution of environmental benefits and burdens equally across the community would be better served.⁸⁸

Those who support Chapter 762 believe controversies arising from poor zoning decisions will be substantially avoided.⁸⁹ They also believe that the guidelines sought under Chapter 762 will promote better health in minority communities, where citizens suffer higher rates of asthma and respiratory illnesses over other communities.⁹⁰ Those who oppose Chapter 762 question the

79. Best Interview, *supra* note 20.

80. *Id.*

81. *Id.*

82. See Gross, Shafsky & Brown, *supra* note 30, at 3-12 (describing an approach used by several statutes to achieve environmental justice).

83. CAL. PUB. RES. CODE §§ 21000-21178 (West 1999).

84. See also Best Interview, *supra* note 20 (describing examples such as land uses and other environmental concerns); Graddich Interview, *supra* note 22 (discussing topics such as location, density, and framework).

85. CAL. PUB. RES. CODE §§ 21000-21178.

86. Best Interview, *supra* note 20.

87. See Graddich Interview, *supra* note 22 (discussing the proximity of commercial and industrial buildings to residences and how it could be perceived as a nuisance).

88. CAL. GOV'T CODE § 65040.12 (amended by Chapter 762); Best Interview, *supra* note 20.

89. See Letter from K.C. Bishop III, Senior Consultant, California State Relations, Chevron Corporation, to the Honorable Byron Sher, Chair, Senate Environmental Quality Committee 1 (June 13, 2001) (on file with the *McGeorge Law Review*) (stating that "California's growth has resulted in new housing developments being built in or near areas zoned for industrial use. Such incompatible land uses can lead to disputes between communities and businesses over the impact of lawfully operating businesses on surrounding neighborhoods.").

90. See Letter from Bonnie Holmes-Gen, Assistant VP for Government Relations, American Lung

prudence of allowing a state agency to create and implement regulatory guidelines for local governments without providing for review by the Legislature.⁹¹ Opponents also believe that the issue of environmental justice is adequately addressed in existing law,⁹² namely in CEQA.⁹³

VI. CONCLUSION

Waste removal facilities and landfills are an unfortunate result of today's highly sophisticated yet over populated society. They affect all individuals who live or attend school around them. Provisions like Chapter 762 are created to minimize the burdens placed on a single community by these hazards and to enhance the livelihood of the community and its citizens. The concept of environmental justice, though still in its infancy, will no doubt play a substantial role in the general plan and land-use provisions of all cities and counties across the country in the future.

Association of California, to Howard Wayne, Chair, Assembly Committee on Natural Resources 1 (Apr. 11, 2001) (on file with the *McGeorge Law Review*) (discussing the implications on low-income communities and communities of color).

91. ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT, COMMITTEE ANALYSIS OF AB 1553, at 3 (Apr. 25, 2001).

92. Telephone Interview with David Nunenkamp, Republican Consultant, Assembly Natural Resources Committee (June 27, 2001) (notes on file with the *McGeorge Law Review*).

93. CAL. PUB. RES. CODE §§ 21000- 21178 (West 1999).